

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

Michael Mecikalski)	
)	
Plaintiff,)	
)	Case No. 1:14-cv-02441.
v.)	
)	Hon. Robert M. Dow, Jr.
AbbVie Inc.)	
)	
Defendant.)	
)	
)	

UNOPPOSED MOTION TO REMAND

Defendant AbbVie Inc. hereby seeks remand pursuant to 28 U.S.C § 1447 of the above-captioned action to the Circuit Court of Cook County, Illinois, where it was originally filed. Plaintiff does not oppose this Motion. In support, Defendant states:

1. On April 4, 2014, Plaintiff filed an action against the Defendant in the Circuit Court of Cook County, Illinois, styled *Mecikalski v. AbbVie, Inc.*, Case No. 2014L003814.

2. That afternoon, Defendant filed a notice of removal to this Court. As set forth therein, the diversity of citizenship and amount-in-controversy requirements are satisfied. (DE 1.) In addition, although Defendant is a citizen of Illinois, removal was proper under 28 U.S.C. § 1441(b)(2), the forum defendant rule, because Defendant believed that it had not been served with the summons and complaint. As explained in *In re Fosamax Prod. Liability Lit.*, 2008 WL 2940560, at *5 (S.D.N.Y.), and *Yocham v. Novartis Pharmaceuticals*, 2007 WL 2318493, at *3 (D.N.J.), the plain language of § 1442(b)(2) states that a removal by a home-state defendant is proper if it takes place before service.

3. Unbeknownst to Defendant, however, the complaint and summons had been served that morning on Defendant's registered agent. Defendant and its counsel only learned of the service on April 7, when a copy of the proof of service was provided by Plaintiff's counsel.

4. For that reason, Defendant now files this Motion to remand the above-captioned action to the Circuit Court of Cook County. Plaintiff agrees that this Motion should be granted.

WHEREFORE, Defendant respectfully requests that this action be remanded back to the Circuit Court of Cook County.

Dated: April 8, 2014

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Scott P. Glauberman, hereby certify that on April 8, 2014 the foregoing document was filed via the Court's CM/ECF system, and also sent via U.S. mail to counsel for the Plaintiff:

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